



# YOUR TRUSTEE OR AGENT

## A Long-Term Relationship

### California Debt and Investment Advisory Commission Fundamentals of Debt Financing

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May 6, 2004

**THE  
BANK OF  
NEW  
YORK**

## What We'll Cover

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- Role of Trustee or Agent
- Default
- Professionalism of Your Trust Administrator
- Administrative Duties of a Trustee or Fiscal Agent
- Pre-Closing Discussions With Your Trustee
- Your Trustee, Fiscal and Paying Agent

# What We Do The Role of The Trustee or Agent

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**Simple to complex roles-levels of involvement depend on type of financing**

- Paying Agent-payment of principal & interest to your bondholders
- Fiscal Agent-in addition to paying agent duties, perform certain administrative duties on Issuer's behalf
  - Primary record-keeping/tracking of bond proceeds. Custodian of investments representing bond proceeds. Maintenance of Reserve, Project, and Debt Service Funds.
  - Monitoring and collection of compliance documentation or covenants required under the financing documents
- Trustee-In addition to Paying Agent & Fiscal Agent duties, wear fiduciary hat in pursuing remedies of bondholders in the event of default by the issuer.

## **Default-Trustee Becomes “Prudent Person”**

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### **Protecting the interest of your bondholders**

- Pursuit of remedial provisions under the indenture
- Notices of default and bondholder communications
- Creditors' committee
- Acceleration of bonds
- Exercise of ownership on collateral held

## **So Who Are These Professionals That Work for Me?**

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Trust administrators as professionals are an extension of your office. Make certain you select your trustee based upon experience, professionalism and resources, not just price. What skills do they/should they possess?

- Legal knowledge and document review skills
- Understanding of investments and settlement process
- Accounting skills
- Systems knowledge
- Communication skills
- Organizational skills

They should possess a wealth of information related to your bond issue. Get them to share this knowledge with you. It can make your job easier.

# **Administrative Duties of a Trustee or Fiscal Agent Our Agency Functions . . . an Extension of You**

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## **What does the trustee do for you...?**

- Construction fund accounting manager payment of requisitions as you build your project.
- Administration of funds established under the indenture
- Debt service billing and collection of revenues or payments for eventual payment to bondholders
- Custodian/safekeeping agent of bond proceeds
- Compliance manager

## **The Construction or Project Fund Phase**

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- Payment of requisitions as you build your project
- Requisition disbursements requirements
- Authorized disbursements and signatures required
- Vendor payments and timing requirements
- Payments to vendors vs. reimbursement to issuer
- Completion certificates

## **Establishment of Trust Accounts**

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- Administration of Trust Funds established under the indenture
- How many do you really need/want?
- Accounting processes...project fund to track payments made to vendors
- Proper tracking and transfer of interest earnings
- Proper tracking of the re-payment process ...waterfall through funds
- Internet or online access to view your activity and assets held in trust
- How often do you need your statements, what about other departments and auditors?



## Debt Service Process

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- Debt Service billing and collection of tax revenue, lease payments, etc. from issuer, for eventual payment to bondholders
- Fixed vs. variable rate processes.
- Debt service schedules
- Sinking fund requirements
- Payment due dates and timing requirements
- Credits via interest earnings or capitalized interest
- DTC Book-entry –only and your bondholders

## Investment of Trust Funds

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- The Investment of Bond Proceeds
- Permitted investments
- Settlement procedures and timing requirements
- Tracking market value of investments such as GIC's, or LAIF vs. standard investments
- A trustee is not an investment advisor

## Compliance Monitoring and Disclosure

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- Tracking covenant requirements under the Indenture
- Tickler system to track what continuing documentation, reports and certificates you need to provide the trustee (ultimately they are built in protections for your bondholders)
  - Insurance certificates vs. Statements
  - Budgets and preliminary budgets
  - Annual reports for disclosure
  - Disclosure Dissemination Agent
  - Rebate requirements
  - Change in authorized signatories

## Pre-closing . . . Before Its Too Late

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- Pre-closing . . . The issuer and trustee will have to work within these documents for the next 30 years, make certain they read the way you want them. Things to consider . . .
  - the establishment of sub accounts
  - waterfall of revenue or lease payments
  - document and invoice requirements surrounding disbursements for construction funds
  - permitted investment language
  - compliance requirements and documentation required
  - covenant restrictions

## Some closing thoughts and questions about your relationship with your trustee . . .

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- Many parties move on after the closing. The Issuer and the Trustee are actively involved for the life of the bonds.
- The trustee performs administrative functions on my behalf, which will directly reflect on me, the City/Agency and our bond holders. How am I selecting my trustee (my 30 year partner)?
- I now have a five-inch thick closing transcript binder, with no pictures. How do I organize what is important for the next thirty years?
- What tools or resources does my trustee have which might blend in with what I need?
- In long-term relationship should begin prior to the closing and early on in the document review process.

# Identify the Right Trustee or Agent...Your Financing Partner for the Life of the Bonds

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## What to look for in the Institution and the Individual professionals

- Trustee Services-Specialized, not all Banks do it anymore
- Commitment Level of the Bank or Trust Company
  - Systems and resources utilized by the front and back office
  - Ability to attract talented professionals
- You pay them an annual fee. What to ask for, What to expect
  - Perform your job and take care of debt holders
  - Make my life easier and assist me through this process
  - Sharing of knowledge related to covenant requirements
  - Timing of statements, electronic or hard copy
  - Share your specific timing requirements and needs

## Don't Hesitate to Contact me with your questions

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